

FILED *fm*

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
Columbia Division

2004 SEP -9 AM 11:21

U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN

**TIM CURRY, on behalf of himself and all
others similarly situated,**

Plaintiff,

v.

**E.I. DUPONT DE NEMOURS and
COMPANY; PIONEER HI-BRED
INTERNATIONAL; and MONSANTO
COMPANY,**

Defendants.

**Case No. 1:04-0029
Judge Haynes
Judge Brown**

*ON D.E.C.
This motion
is GRANTED
July 15, 2004
USDC*

**DEFENDANTS' MOTION FOR LEAVE TO SUBMIT SUPPLEMENTAL AUTHORITY
REGARDING OPPOSITION TO PLAINTIFF'S MOTION TO REMAND**

Defendants respectfully request leave to submit the attached recent decision of the United States Court of Appeals for the Sixth Circuit holding that *Zahn v. International Paper Co.*, 414 U.S. 291 (1973) was overruled with Congress's passage of 28 U.S.C. § 1367(a). See *Olden v. Lafarge Corp.*, (No. 02-1148), 2004 WL 1960157 (6th Cir. Sept. 7, 2004). In Defendants' Memorandum in Opposition to Plaintiff's Motion to Remand for Lack of Subject Matter Jurisdiction, Defendants fully briefed their position opposing remand in this case, including on the basis that *Zahn* had been overruled. See Defs.' Mem. in Opp'n to Pl.'s Mot. to Remand for Lack of Subject Matter Jurisdiction at 7. At the time of briefing, however, the Sixth Circuit had not ruled on the issue. Defendants submit this recent ruling in the *Olden* case for the sake of completeness in connection with Plaintiff's pending motion to remand this matter.